IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 16306 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL NIMISHABEN MAHESHKUMAR & 1 - Petitioner(s)

Versus

REGIONAL PASSPORT OFFICER - Respondent(s)

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Appearance :

MR.S.M.GOHIL for Petitioner(s) : 1 - 2.
MR J.M.MALKAN, Asst. Solicitor General of India for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 02/09/2005

ORAL JUDGMENT

1.0 The petitioners have prayed to direct the respondent authority to process the application of petitioner no.2 for Passport.

2.0 The brief facts of the case are that petitioner no.1 herein has taken petitioner no.2 in adoption from her natural parents. Petitioner no.2 has been adopted by Maheshbhai Ambubhai Patel and petitioner no.1, by way of a legitimate deed of adoption executed on 22.03.2005. Maheshbhai Ambubhai Patel and petitioner no.1 herein are the permanent residents of Canada.

2.1 It is the case of the petitioners that an application was made to the respondent authority for obtaining Passport of petitioner no.2. However, the said application was rejected by the respondent authority with an endorsement stating “Obtain Court Orders”. Hence, this petition.

3.0 I have heard learned counsel for the parties. Having gone through the documents placed on record, it is clear that petitioner no.2 herein is deemed to be a child of her adoptive parents from the date of the said adoption deed, and therefore, her Passport would have to bear the name of the adoptive parents as her real parents inasmuch as effectively petitioner no.2 has legally severed all her ties with her natural parents and has in fact

effectively got a legal re-birth in the family of the adoptive parents.

3.1 It be noted that in the case of ***Ambalal Shankarbhai Patel v. Union of India*** reported in ***1992(2) G.L.R. pg. 1317***, the High Court had directed the respondent authority to issue Passport to the minor since it was in the interest of the minor, though it was held that the action of the passport authorities of insisting upon proof of valid adoption was right.

4.0 In view of the principle laid down in the aforesaid decision and looking to the peculiar facts and circumstances of the case, the respondent authority is directed to issue Passport to minor – Patel Ruti Maheshkumar in the name of the adoptive father as expeditiously as possible. With the above direction, the petition stands disposed of. Rule is made absolute accordingly with no order as to costs. Direct service permitted.

(K. S. JHAVERI, J.)

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